

**MEMORANDUM**

TO: Joseph Kirk, Ohio Department of Public Safety

FROM: Sarah JanTausch, Regulatory Policy Advocate

DATE: February 15, 2017

RE: **CSI Review – Mobile Intensive Care Units (OAC 4766-4-01, 4766-4-02, 4766-4-03, 4766-4-04, 4766-4-05, 4766-4-06, 4766-4-07, 4766-4-08, 4766-4-09, 4766-4-10, 4766-4-11, 4766-4-12, 4766-4-13, 4766-4-14, 4766-4-15, 4766-4-16, 4766-4-17, and 4766-4-18)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of 18 rules – 14 amended,¹ two new, one rescinded, and one no-change – submitted by the Ohio Department of Public Safety's Division of Emergency Medical Services (EMS) for review under the statutory five-year rule review requirement. This rule package is also being updated to align with Ambulette rules which were submitted simultaneously and Ambulance rules which were revised in 2016. The rule package was submitted to the CSI Office on January 4, 2017 and the public comment period was held open through January 26, 2017.

The law requires EMS to adopt rules for the operation of mobile intensive care units (MoICU), which includes permits and licensure, record keeping, fees, inspections, vehicle equipment, staffing, and communication systems (ORC 4766.03). EMS is proposing two new rules – Rule

¹ Ohio Administrative Code (OAC) section 4766-4-16 is being amended to the extent that the Legislative Service Commission requires the agency to rescind the rule and replace it with a new rule with the same number.

4766-4-17 describes the process of licensure or permit suspension, revocation, and refusal to renew and fines for violation of law or rule of up to \$1,500. Rule 4766-4-18 lists citations for a number of materials referenced throughout the chapter. Amendments to the rules include updating definitions and ORC references and operational requirements. The rules contain a number of amendments including a new \$5.00 fee to cover the cost of duplicate vehicle decals, a new requirement for the agency to work with applicants who submit incomplete applications, revised inspection requirements to align with law, and a provision requiring Mobile Transportation Organizations (MTOs) to comply with state and local building code regulations as they pertain to their headquarters and satellite location(s) from which they dispatch vehicles. Rule 4766-4-10 has been rescinded and the equipment requirements for MoICU vehicles have been included in Rule 4766-4-08 (Vehicle Inspections and Equipment Requirements).

During early stakeholder outreach, EMS reached out to the State Board of Emergency Medical, Fire, and Transportation Services; the Medical Transportation Committee and its Critical Care Subcommittee; members of the Division of EMS staff, including legal staff; medical transportation inspectors contracted by the Department; all 127 licensed MoICU organizations; and two industry associations. During that process, several stakeholders proposed revisions to reduce business impact, while ensuring health and human safety. The MoICU two-way communication system requirements were revised to be more inclusive regarding the type of system (OAC 4766-4-06). This will allow the impacted business community to select a communication system that meets their needs and aligns with communication system requirements ensuring safety of operators and passengers. Gratis license plates are now permitted and this rule now aligns with Ambulette and Ambulance rules (OAC 4766-4-11). Lastly, MTOs are now permitted to have a mechanical safety inspection conducted by a mechanic with factory training and certification from “an original (motor vehicle) equipment manufacturer” with proper certification. Previously the language had required an inspection from “the original” equipment manufacturer with proper certification. This will save the impacted businesses time while ensuring that proper inspection requirements are met to protect the public.

According to the BIA, these rules have costs associated with compliance that include application, duplicate vehicle decal, and inspection fees. The scope of the impacted business community includes 127 licensed MTOs that operate a total of 1,646 MoICUs. Fees are assessed for an initial license, a renewal, a per vehicle fee, a non-transport per vehicle fee, and inspection fees. Each of these fees cost \$100.00. The new fee has been proposed totaling \$5.00 to cover actual costs associated with the re-printing and mailing of a duplicate vehicle decal. This cost will not be applicable to any company that keeps its original vehicle decal(s) intact. Other costs include license suspension, revocation, or refusal to renew by the Board following an investigation. Lastly, there are mechanical vehicle inspection costs which have been estimated in the BIA as \$100.00 – 200.00 for a pre-purchase inspection. A stakeholder who is also the president of an ambulance company submitted the estimated average cost as \$70.00 – 100.00 per hour for an

inspection. The BIA states that assuring the safety and effective delivery of EMS care to patients who must use an MTO and its vehicle(s) justifies the adverse impact to the business community.

During the CSI comment period two comments were received and several updates to the proposed rules were made as a result of those comments and to align the rules with ORC Chapter 4766. One of the comments was submitted by an emergency medicine doctor and one by a clinical manager at a hospital. Both comments requested revision to OAC 4766-4-13 (Staffing Compliance) to include a list of licensed or certified health care professionals that may be designated by a physician to serve as part of the healthcare-related personnel in a transport team (separate requirements exist for drivers of MoICUs). The Department has revised the rules to include the specific types of licensed health care providers that can serve as a designee.

The Department made a number of changes to the rules as a result of stakeholder feedback during the early stakeholder outreach and CSI Office comment periods. These changes resulted in alleviating some of the impact to businesses while protecting public interest and safety. After review of the changes, the rules and applicable laws, and the BIA, the CSI Office identified one recommended change to OAC 4766-4-08 in the equipment requirements for MoICUs. The statute allows an exemption from carrying immobilization equipment for MoICUs not dually certified to provide advanced life-support (ORC 4766.03(C)), but the rule indicates that all MoICUs must carry this equipment. The CSI Office recommends that this rule be revised to include this exemption for the purpose of eliminating the conflict with statute and preventing any unnecessary burden or cost for MoICUs who are not dually certified to provide advanced life-support. EMS has agreed to this recommendation.

Recommendation

The CSI Office recommends that EMS revise the equipment requirements to allow for the same exemptions that exist in law.

Conclusion

Based on the above comments and contingent on complying with the recommendation regarding the MoICU equipment requirement exemption, the CSI Office concludes that the Ohio Department of Public Safety should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office